

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE YASMIN AND YAZ (DROSPIRENONE)) 3:09-md-02100-DRH-PMF
MARKETING, SALES PRACTICES AND)
PRODUCTS LIABILITY LITIGATION) MDL No. 2100
)

ORDER

This Document Relates to:

Gardner v. Bayer Corp., et al. No. 3:10-cv-10034-DRH-PMF

Hornby v. Bayer Corp., et al. No. 3:10-cv-10105-DRH-PMF

LaBelle v. Bayer Corp., et al. No. 3:09-cv-10088-DRH-PMF

Lodato v. Bayer Corp., et al. No. 3:10-cv-10131-DRH-PMF

McMillan v. Bayer Corp., et al. No. 3:10-cv-10048-DRH-PMF

Myers v. Bayer Corp., et al. No. 3:10-cv-10020-DRH-PMF

Britt v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10399-DRH-PMF

McGaha v. Bayer Corp., et al. No. 3:10-cv-20222-DRH-PMF

Patton v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10267-DRH-PMF

ORDER

HERNDON, Chief Judge:

This matter is before the Court on Defendant Bayer HealthCare Pharmaceuticals Inc.'s ("Bayer") motion, pursuant to Case Management Order 12 ("CMO 12"), for an Order dismissing Plaintiffs' claims in the above-captioned matters without prejudice for failure to comply with their Plaintiff Fact Sheet

(“PFS”) obligations.¹ Bayer contends that the Plaintiffs in the above-captioned matters have not served substantially complete PFSs and are therefore delinquent pursuant to CMO 12.

Under Section E of CMO 12, Plaintiffs were given 14 days from the date of Defendant’s motion² to file a response either certifying that they served upon Defendants and Defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to Defendant’s motion.

Only one Plaintiff in the above-captioned member actions timely filed a response to Bayer’s motion to dismiss pursuant to CMO 12. Plaintiff Megan Britt (member action number 3:10-cv-10399) filed a response certifying that she had corrected the deficiencies in her PFS and that the necessary documents had been served upon Bayer (*Britt* Doc. 13).

The Plaintiffs in the remaining member actions have failed to file any response to Bayer’s motion to dismiss. Because the remaining Plaintiffs have failed to respond, in any way, to Bayer’s allegations that the submitted PFSs are not substantially complete, the Court finds that the remaining Plaintiffs in the

¹ Under Section C of CMO 12, each Plaintiff is required to serve Defendants with a completed PFS, including a signed Declaration, executed record release Authorizations, and copies of all documents subject to the requests for production contained in the PFS which are in the possession of Plaintiff. Section B of CMO 12 further provides that a completed PFS is due “45 days from the date of service of the first answer to her Complaint or the docketing of her case in this MDL, or 45 days from the date of this Order, whichever is later.”

² The motions to dismiss in *Gardner*, *Hornby*, *LaBelle*, *Lodato*, *McMillan*, and *Myers* were filed on October 27, 2010 (*Gardner* Doc. 20; *Hornby* Doc. 19; *LaBelle* Doc. 35; *Lodato* Doc. 19; *McMillan* Doc. 20; and *Myers* Doc. 20). The motions to dismiss in *Britt*, *McGaha*, and *Patton* were filed on October 26, 2010 (*Britt* Doc. 12; *McGaha* Doc. 17; *Patton* Doc. 13).

above-captioned member actions have failed to comply with the requirements of CMO 12.

Accordingly, the Court hereby **Orders** as follows:

1. The motion to dismiss filed in **Britt v. Bayer Healthcare Pharmaceuticals, et al. No. 3:10-cv-10399-DRH-PMF** is **DENIED** as **MOOT**.
2. The following member actions are **dismissed without prejudice** for failure to comply with the requirements of CMO 12:

Gardner v. Bayer Corp., et al. No. 3:10-cv-10034-DRH-PMF

Hornby v. Bayer Corp., et al. No. 3:10-cv-10105-DRH-PMF

LaBelle v. Bayer Corp., et al. No. 3:09-cv-10088-DRH-PMF

Lodato v. Bayer Corp., et al. No. 3:10-cv-10131-DRH-PMF

McMillan v. Bayer Corp., et al. No. 3:10-cv-10048-DRH-PMF

Myers v. Bayer Corp., et al. No. 3:10-cv-10020-DRH-PMF

McGaha v. Bayer Corp., et al. No. 3:10-cv-20222-DRH-PMF

Patton v. Bayer HealthCare Pharms., Inc., et al. No. 3:10-cv-10267-DRH-PMF

Further, the Court reminds Plaintiffs that, pursuant to CMO 12 Section E, **unless Plaintiffs serve Defendants with a completed PFS or move to**

vacate the dismissal without prejudice within 60 days after entry of this Order, the Order will be converted to a Dismissal With Prejudice upon Defendants' motion.

SO ORDERED


David R. Herndon
2010.11.18
15:53:05 -06'00'

Chief Judge
United States District Court

Date: November 18, 2010